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July 10, 2013

The Honorable George A. O'Toole
United States District Court
One Courthouse Way
Boston, MA 02201

Re: Mitchell Kennedy, et al v. Town of Billerica, et al
C.A. NO. 10-CV-11457-GAO


Dear Judge O'Toole:

I am filing the accompanying Notice of Audio Visual Deposition of Harold "Teddy" Gannon, so that the Court may be aware that plaintiff has arranged for Mr. Gannon's deposition to be taken in light of his unavailability for trial.

In preparing for trial, plaintiffs' counsel has only this week learned that Mr. Gannon, an eye witness to the incident on September 7, 2007 that gives rise to this action, is presently in the military, serving at Fort Lee, near Petersburg, Virginia. The deposition has been arranged in order to preserve his testimony for trial.

I thought it appropriate to advise the Court of the situation and was advised that a letter to the Court, filed through the ECF system was the proper manner to do so.

Yours truly,



Andrew M. Fischer

AMF:ms

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MITCHELL KENNEDY and MICHELLE
KENNEDY, as mother and next friend
of DYLAN KENNEDY,

Plaintiffs

vs.

TOWN OF BILLERICA, ET AL.,

Defendants

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* C.A. NO. 10-11457-GAO
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NOTICE OF TAKING AUDIO-VISUAL DEPOSITION

TO: Jeremy Silverfine, Esquire
Brody, Hardoon, Perkins & Kesten, LLP
One Exeter Plaza
Boston, MA 02116

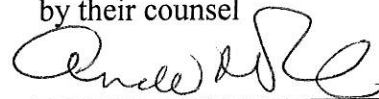
Please take note that at 2:00 p.m. on Wednesday, July 17, 2013 at the offices of Josh Silverman, 3415 Floyd Avenue, Richmond, VA 23221, the plaintiffs in this action, by their attorney, will take audio-visual deposition of **Harold "Teddy" Gannon**, for the purpose of its being used as evidence at trial in lieu of oral testimony. The deposition shall be upon oral examination and recorded by audio-visual means, pursuant to the applicable provisions of the Federal Rules of Civil Procedure, and before a court stenographer, a Notary Public in and for the State of Virginia, or before some other officer authorized by law to administer oaths. The oral examination will continue from day to day until completed

You are invited to attend and cross-examine.

Date:

July 10 2013

Respectfully submitted,
Mitchell Kennedy, et al
by their counsel



Andrew M. Fischer
BB0# 167040
Andrew J. Brodie III
BBO # 661269
JASON & FISCHER
47 Winter Street
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UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

Brian Kennedy, et al

Plaintiff

v.

Town of Billerica, et al

Defendant

Civil Action No. 10-11457-GAO

(If the action is pending in another district, state where:

District of Massachusetts)

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Harold "Teddy" Gannon

Fox Co 16th ORD, 59th ORD BDE, 210 Edgewood Rd., BLD 18025, Fort Lee, VA 23801

☒ **Testimony:** **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Williamson Law Building, Office of Josh Silverman, Esq.
3415 Floyd Avenue
Richmond, VA 23221

Date and Time:

07/17/2013 2:00 pm

The deposition will be recorded by this method: stenographer or court reporter

- ☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 07/10/2013

CLERK OF COURT

OR



Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Brian Kennedy, et al

, who issues or requests this subpoena, are:

Andrew M. Fischer, Jason & Fischer
47 Winter Street
Boston, MA 02108 617-423-7904

Civil Action No. 10-11457-GAO

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: